



February 22, 2002

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## ENGROSSED HOUSE BILL No. 1347

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DIGEST OF HB 1347 (Updated February 21, 2002 10:58 AM - DI 102)

**Citations Affected:** IC 5-10; IC 36-8.

**Synopsis:** Public safety worker occupational disease or death. Creates a presumption that an emergency services employee or a public safety employee who incurs death or disability from a health condition caused by AIDS, anthrax, hepatitis, HIV, meningococcal meningitis, smallpox, or tuberculosis acquired while performing duties in the scope of the employee's employment and meets other requirements has incurred a death or disability in the line of duty and provides for certain benefits due to the employee who has incurred death or a disability in the line of duty. Allows a meeting or hearing to rebut the presumption to be held as an executive session.

**Effective:** July 1, 2002.

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### Alderman, Lawson L

(SENATE SPONSORS — MEEKS C, LUTZ L, HERSHMAN, CRAYCRAFT)

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January 15, 2002, read first time and referred to Committee on Labor and Employment.  
January 29, 2002, amended, reported — Do Pass.  
February 4, 2002, read second time, ordered engrossed.  
February 5, 2002, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Pensions and Labor.  
February 21, 2002, amended, reported favorably — Do Pass.

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EH 1347—LS 7105/DI 97+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED HOUSE BILL No. 1347

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10-5.5-13.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13.5. (a) This section  
3 applies to participants whose disability occurred after June 30, 1987.

4 (b) Benefits provided under this section are subject to section 2.5 of  
5 this chapter.

6 (c) As used in this section, a disability is to be considered to have  
7 arisen in the line of duty if the disability is the direct result of:

8 (1) a personal injury that occurs while the participant is on duty;  
9 or

10 (2) a personal injury that occurs while the participant is off duty  
11 and responding to an offense or an emergency or a reported  
12 offense or emergency;

13 **or if the disability is presumed incurred in the line of duty under**  
14 **IC 5-10-13.**

15 (d) A participant whose disability arose in the line of duty is entitled  
16 to a monthly benefit equal to the participant's monthly salary on the  
17 date of disability multiplied by the degree of impairment (expressed as

EH 1347—LS 7105/DI 97+



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a percentage impairment of the person as a whole). However, the monthly benefit under this subsection must be at least:

- (1) twenty percent (20%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or
- (2) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(e) A participant whose disability did not arise in the line of duty is entitled to a monthly benefit equal to one-half (1/2) of the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage of the person as a whole). However, the monthly benefit under this subsection must be at least:

- (1) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or
- (2) five percent (5%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

SECTION 2. IC 5-10-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. As used in this chapter, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that the public safety officer, in the public safety officer's capacity as a public safety officer, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of controlling or reducing crime or enforcing the criminal law. **For purposes of a public safety officer who is an employee (as defined in IC 5-10-13-2), the term includes a death presumed incurred in the line of duty under IC 5-10-13.**

SECTION 3. IC 5-10-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

**Chapter 13. Emergency and Public Safety Employee Death and Disability Presumed Incurred in the Line of Duty**

**Sec. 1. As used in this chapter, "exposure risk disease" refers to:**

- (1) acquired immune deficiency syndrome (AIDS);
- (2) anthrax;
- (3) hepatitis;
- (4) human immunodeficiency virus (HIV);
- (5) meningococcal meningitis;
- (6) smallpox; and



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(7) tuberculosis.

Sec. 2. As used in this chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:

(A) a member of a fire department (as defined in IC 36-8-1-8);

(B) an emergency medical services provider (as defined in IC 16-41-10-1);

(C) a member of a police department (as defined in IC 36-8-1-9);

(D) a correctional officer (as defined in IC 5-10-10-1.5);

(E) a state police officer;

(F) a county police officer;

(G) a county sheriff;

(H) an excise police officer;

(I) a conservation enforcement officer;

(J) a town marshal; or

(K) a deputy town marshal;

(2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and

(3) is not employed elsewhere in a similar capacity.

Sec. 3. As used in this chapter, "high risk for occupational exposure" means that risk is incurred by an individual in performing the basic duties of the individual's employment, including:

(1) providing emergency medical treatment in a nonhealth care setting where there is a potential for transfer of body fluids between individuals;

(2) working at the scene of an accident, a fire, or other rescue or public safety operation or in an emergency rescue vehicle or public safety vehicle during which the individual has contact with body fluids, containers of body fluids, hypodermic needles, or other materials that have been exposed to body fluids;

(3) engaging in the pursuit, apprehension, and arrest of law violators or suspected law violators during which the individual may be exposed to body fluids; or

(4) maintaining custody and physical restraint of prisoners or inmates of a prison, a jail, or other criminal detention facility during which the individual may be exposed to body fluids.

Sec. 4. As used in this chapter, "political subdivision" has the



1 meaning set forth in IC 6-3.5-2-1.

2 Sec. 5. (a) Except as provided in section 6 of this chapter, an  
3 employee who:

4 (1) is diagnosed with a health condition caused by an exposure  
5 risk disease that:

6 (A) requires medical treatment; and

7 (B) results in total or partial disability or death;

8 (2) by written affidavit has provided to the employee's  
9 employer a verification described in subsection (b), (c), (d),  
10 (e), or (f); and

11 (3) before the employee is diagnosed with a health condition  
12 caused by hepatitis or tuberculosis, tests negative for evidence  
13 of hepatitis or tuberculosis through medical testing;  
14 is presumed to have a disability or death incurred in the line of  
15 duty.

16 (b) An employee who is diagnosed with a health condition  
17 caused by hepatitis and, if the health condition results in disability  
18 or death, wishes to have a presumption of disability or death  
19 incurred in the line of duty apply to the employee shall, by written  
20 affidavit executed before death, provide verification that the  
21 employee has not:

22 (1) outside the scope of the employee's current employment,  
23 been exposed through transfer of body fluids to an individual  
24 known to have a medical condition caused by hepatitis;

25 (2) received blood products other than a transfusion received  
26 because of an injury to the employee that occurred in the  
27 scope of the employee's current employment;

28 (3) received blood products for the treatment of a coagulation  
29 disorder since testing negative for hepatitis;

30 (4) engaged in sexual practices or other behavior identified as  
31 high risk by the Centers for Disease Control and Prevention  
32 or the Surgeon General of the United States;

33 (5) had sexual relations with another individual known to the  
34 employee to have engaged in sexual practices or other  
35 behavior described in subdivision (4); or

36 (6) used intravenous drugs that were not prescribed by a  
37 physician.

38 (c) An employee who is diagnosed with a health condition  
39 caused by meningococcal meningitis and, if the health condition  
40 results in disability or death, wishes to have a presumption of  
41 disability or death incurred in the line of duty apply to the  
42 employee shall, by written affidavit executed before death, provide

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1 verification that the employee, in the ten (10) days immediately  
2 preceding the diagnosis, was not exposed to another individual  
3 known to:

4 (1) have meningococcal meningitis; or

5 (2) be an asymptomatic carrier of meningococcal meningitis;  
6 outside the scope of the employee's current employment.

7 (d) An employee who is diagnosed with a health condition  
8 caused by tuberculosis and, if the health condition results in  
9 disability or death, wishes to have a presumption of disability or  
10 death incurred in the line of duty apply to the employee shall, by  
11 written affidavit executed before death, provide verification that  
12 the employee has not, outside the scope of the employee's current  
13 employment, been exposed to another individual known to have  
14 tuberculosis.

15 (e) An employee who is diagnosed with a health condition  
16 caused by AIDS or HIV and, if the health condition results in  
17 disability or death, wishes to have a presumption of disability or  
18 death incurred in the line of duty apply to the employee shall, by  
19 written affidavit executed before death, provide verification that  
20 the employee has not:

21 (1) outside the scope of the employee's current employment,  
22 been exposed through transfer of body fluids to an individual  
23 known to have a medical condition caused by AIDS or HIV;

24 (2) received blood products other than a transfusion received  
25 because of an injury to the employee that occurred in the  
26 scope of the employee's current employment;

27 (3) received blood products for the treatment of a coagulation  
28 disorder since testing negative for AIDS or HIV;

29 (4) engaged in sexual practices or other behavior identified as  
30 high risk by the Centers for Disease Control and Prevention  
31 or the Surgeon General of the United States;

32 (5) had sexual relations with another individual known to the  
33 employee to have engaged in sexual practices or other  
34 behavior described in subdivision (4); or

35 (6) used intravenous drugs that were not prescribed by a  
36 physician.

37 (f) An employee who is diagnosed with a health condition caused  
38 by smallpox and, if the health condition results in disability or  
39 death, wishes to have a presumption of disability or death incurred  
40 in the line of duty apply to the employee shall, by written affidavit  
41 executed before death, provide verification that the employee has  
42 not, outside the scope of the employee's current employment, been



1 exposed to another individual known to have smallpox.

2 (g) A presumption of disability or death incurred in the line of  
3 duty may be rebutted by competent evidence.

4 (h) A meeting or hearing held to rebut a presumption of  
5 disability or death incurred in the line of duty may be held as an  
6 executive session under IC 5-14-1.5-6.1(b)(1).

7 Sec. 6. If a standard, medically recognized vaccine or other  
8 measure exists for the prevention of an exposure risk disease and  
9 the vaccine or other measure is medically indicated for an  
10 employee according to immunization policies established by the  
11 Advisory Committee on Immunization Practices of the United  
12 States Public Health Service, the following apply:

13 (1) If:

14 (A) the employee receives the vaccine or other measure as  
15 required by the employee's employer; or

16 (B) the employee's physician provides written notice to the  
17 employer that the vaccine or other measure would pose a  
18 significant risk to the employee's health;

19 and the employee meets the other requirements of this  
20 chapter, a presumption of disability or death incurred in the  
21 line of duty under this chapter applies to the employee.

22 (2) If:

23 (A) the employee does not receive the vaccine or other  
24 measure as required by the employee's employer; and

25 (B) the employee's physician has not provided written  
26 notice that the vaccine or other measure would pose a  
27 significant risk to the employee's health;

28 a presumption of disability or death incurred in the line of  
29 duty under this chapter does not apply to the employee.

30 Sec. 7. (a) An employee shall file a report with the employee's  
31 employer of each known or reasonably suspected exposure to an  
32 exposure risk disease in the scope of the employee's employment.

33 (b) The employer shall maintain a permanent record of a report  
34 filed by an employee under subsection (a).

35 Sec. 8. (a) The state or a political subdivision of the state may  
36 provide, in the life and disability insurance that covers employees  
37 of the state or political subdivision, accidental death coverage or  
38 double indemnity coverage for a health condition caused by a  
39 communicable disease that results in total or partial disability or  
40 death that is presumed to be a disability or death incurred in the  
41 line of duty under this chapter.

42 (b) This chapter does not require an insurer that issues a



1 noncompulsory life insurance policy or a noncompulsory disability  
 2 insurance policy to include in the policy coverage for a disability or  
 3 death presumed incurred in the line of duty as described in this  
 4 chapter.

5 **Sec. 9. This chapter does not affect the requirements for**  
 6 **determining eligibility for disability benefits provided by the state**  
 7 **or a political subdivision of the state except to the extent of**  
 8 **determining whether an employee incurred a disability in the line**  
 9 **of duty.**

10 SECTION 4. IC 36-8-4-5 IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) A city shall pay for the care  
 12 of a police officer or firefighter who suffers an injury while performing  
 13 **his the person's** duty or contracts illness caused by the performance of  
 14 **his the person's** duty, **including an injury or illness that results in**  
 15 **a disability or death presumed incurred in the line of duty under**  
 16 **IC 5-10-13.** This care includes:

- 17 (1) medical and surgical care;
- 18 (2) medicines and laboratory, curative, and palliative agents and  
 19 means;
- 20 (3) X-ray, diagnostic, and therapeutic service, including during  
 21 the recovery period; and
- 22 (4) hospital and special nursing care if the physician or surgeon  
 23 in charge considers it necessary for proper recovery.

24 (b) Expenditures required by subsection (a) shall be paid from the  
 25 general fund of the city.

26 (c) A city that has paid for the care of a police officer or firefighter  
 27 under subsection (a) has a cause of action for reimbursement of the  
 28 amount paid under subsection (a) against any third party against whom  
 29 the police officer or firefighter has a cause of action for an injury  
 30 sustained because of or an illness caused by the third party. The city's  
 31 cause of action under this subsection is in addition to, and not in lieu  
 32 of, the cause of action of the police officer or firefighter against the  
 33 third party.

34 SECTION 5. IC 36-8-6-8, AS AMENDED BY P.L.118-2000,  
 35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2002]: Sec. 8. (a) For a member who became disabled before  
 37 July 1, 2000, the 1925 fund shall be used to pay a pension in a sum  
 38 determined by the local board, but not exceeding:

- 39 (1) for a disability or disease occurring before July 1, 1982, fifty  
 40 percent (50%); and
- 41 (2) for a disability or disease occurring after June 30, 1982,  
 42 fifty-five percent (55%);



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of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability that renders ~~him the patrolman~~ unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. If a member who becomes eligible for a disability pension has more than twenty (20) years of service, ~~he the member~~ is entitled to receive a disability pension equal to the pension ~~he the member~~ would have received if ~~he the member~~ had retired on the date of the disability.

(b) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); ~~or~~

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); ~~or~~

**(C) a disability presumed incurred in the line of duty under IC 5-10-13; and**

(2) that renders the member unable to perform the essential

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functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is not described in subsection (b)(1); and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until ~~he~~ **the member** is retired by the local board because of the disability.

(e) After a member has been retired upon pension, the local board may, at any time, require the retired member to again be examined by the police surgeon or another surgeon appointed by the local board. After the examination the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should remain on the pension roll. The retired member shall be retained on the pension roll until reinstated in the service of the police department, except in case of resignation. If after the examination and hearing the retired member is found to have recovered from ~~his~~ **the member's** disability and to be again fit for active duty, then the member shall be put on active duty with full pay and from that time is no longer entitled to payments from the 1925 fund. If the member fails or refuses to return to active duty, ~~he~~ **the**

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1 **member** waives all rights to further benefits from the 1925 fund.

2 (f) If the salary of a first class patrolman is increased or decreased,  
3 the pension payable shall be proportionately increased or decreased.  
4 However, the monthly pension payable to a member or survivor may  
5 not be reduced below:

6 (1) the amount of the first full monthly pension received by that  
7 person; or

8 (2) fifty-five percent (55%) of the salary of a first class patrolman;  
9 whichever is greater.

10 (g) Time spent receiving disability benefits is considered active  
11 service for the purpose of determining retirement benefits until the  
12 member has a total of twenty (20) years of service.

13 (h) A fund member who is receiving disability benefits under this  
14 chapter shall be transferred from disability to regular retirement status  
15 when the member becomes fifty-five (55) years of age.

16 SECTION 6. IC 36-8-6-10.1, AS AMENDED BY P.L.118-2000,  
17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2002]: Sec. 10.1. (a) This section applies to a member who  
19 dies in the line of duty after August 31, 1982.

20 (b) The surviving spouse is entitled to a monthly benefit, during the  
21 spouse's lifetime, equal to the benefit to which the member would have  
22 been entitled on the date of the member's death, but no less than fifty  
23 percent (50%) of the monthly wage received by a first class patrolman.  
24 If the surviving spouse remarried before September 1, 1983, and  
25 benefits ceased on the date of remarriage, the benefits for the surviving  
26 spouse shall be reinstated on July 1, 1997, and continue during the life  
27 of the surviving spouse.

28 (c) A payment shall also be made to each child of a deceased  
29 member less than eighteen (18) years of age, in an amount fixed by  
30 ordinance, but at least an amount equal to twenty percent (20%) of the  
31 monthly pay of a first class patrolman per month to each child:

32 (1) until the child becomes eighteen (18) years of age;

33 (2) until the child becomes twenty-three (23) years of age if the  
34 child is enrolled in and regularly attending a secondary school or  
35 is a full-time student at an accredited college or university; or

36 (3) during the entire period of the child's physical or mental  
37 disability;

38 whichever period is longer.

39 (d) The surviving children of the deceased member who are eligible  
40 to receive a benefit under subsection (c) may receive an additional  
41 benefit in an amount fixed by ordinance, but the total additional benefit  
42 under this subsection to all the member's children may not exceed a

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total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

**The term includes a death presumed incurred in the line of duty under IC 5-10-13.**

SECTION 7. IC 36-8-7-11, AS AMENDED BY P.L.246-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to be physically or mentally disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary ~~his~~ **the person's** retirement from all service with the department, the local board shall retire the person.



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1 (c) The local board may retire a person for disability only after a  
2 hearing conducted under IC 36-8-8-12.7.

3 (d) If after the hearing the local board determines that a person who  
4 became disabled before July 1, 2000, is disabled and unable to perform  
5 the essential functions of the job, considering reasonable  
6 accommodation to the extent required by the Americans with  
7 Disabilities Act, the local board shall then authorize the monthly  
8 payment to the person from the 1937 fund of an amount equal to  
9 fifty-five percent (55%) of the salary of a fully paid first class  
10 firefighter in the unit at the time of the payment of the pension. All  
11 physical and mental examinations of members of the fire department  
12 shall be made on order of the local board by a medical officer  
13 designated by the local board.

14 (e) If after the hearing under this section and a recommendation  
15 under section 12.5 of this chapter, the 1977 fund advisory committee  
16 determines that a person who becomes disabled after June 30, 2000:

17 (1) has a disability that is:

18 (A) the direct result of:

19 (i) a personal injury that occurs while the fund member is on  
20 duty;

21 (ii) a personal injury that occurs while the fund member is  
22 responding to an emergency or reported emergency for  
23 which the fund member is trained; or

24 (iii) an occupational disease (as defined in IC 22-3-7-10),  
25 including a duty related disease that is also included within  
26 clause (B); ~~or~~

27 (B) a duty related disease (for purposes of this section, a "duty  
28 related disease" means a disease arising out of the fund  
29 member's employment; a disease is considered to arise out of  
30 the fund member's employment if it is apparent to the rational  
31 mind, upon consideration of all of the circumstances, that:

32 (i) there is a connection between the conditions under which  
33 the fund member's duties are performed and the disease;

34 (ii) the disease can be seen to have followed as a natural  
35 incident of the fund member's duties as a result of the  
36 exposure occasioned by the nature of the fund member's  
37 duties; and

38 (iii) the disease can be traced to the fund member's  
39 employment as the proximate cause); **or**

40 **(C) a disability presumed incurred in the line of duty under**  
41 **IC 5-10-13; and**

42 (2) is unable to perform the essential functions of the job,

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1 considering reasonable accommodation to the extent required by  
 2 the Americans with Disabilities Act;  
 3 the local board shall then authorize the monthly payment to the person  
 4 from the 1937 fund of an amount equal to fifty-five percent (55%) of  
 5 the salary of a fully paid first class firefighter in the unit at the time of  
 6 the payment of the pension. All physical and mental examinations of  
 7 members of the fire department shall be made on order of the local  
 8 board by a medical officer designated by the local board.

9 (f) If after the hearing under this section and a recommendation  
 10 under section 12.5 of this chapter, the 1977 fund advisory committee  
 11 determines that a person who becomes disabled after June 30, 2000:

12 (1) has a disability that is not a disability described in subsection  
 13 (e)(1); and

14 (2) is unable to perform the essential functions of the job,  
 15 considering reasonable accommodation to the extent required by  
 16 the Americans with Disabilities Act;

17 the local board shall then authorize the monthly payment to the person  
 18 from the 1937 fund of an amount equal to fifty-five percent (55%) of  
 19 the salary of a fully paid first class firefighter in the unit at the time of  
 20 the payment of the pension. All physical and mental examinations of  
 21 members of the fire department shall be made on order of the local  
 22 board by a medical officer designated by the local board.

23 SECTION 8. IC 36-8-7-12.4, AS ADDED BY P.L.118-2000,  
 24 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2002]: Sec. 12.4. (a) This section applies to an active member  
 26 who dies in the line of duty after August 31, 1982.

27 (b) If a member dies in the line of duty after August 31, 1982, the  
 28 surviving spouse is entitled to a monthly benefit, during the spouse's  
 29 lifetime, equal to the benefit to which the member would have been  
 30 entitled on the date of the member's death, but not less than fifty  
 31 percent (50%) of the monthly wage received by a fully paid first class  
 32 firefighter. If the spouse remarried before September 1, 1983, and  
 33 benefits ceased on the date of remarriage, the benefits for the surviving  
 34 spouse shall be reinstated on July 1, 1997, and continue during the life  
 35 of the surviving spouse. If the pension of the surviving spouse of a  
 36 deceased member has ceased by virtue of the spouse's remarriage, and  
 37 if the person to whom the spouse has remarried was a retired member  
 38 of the fire department who was also entitled to a pension, then upon the  
 39 death of the member to whom the spouse had remarried, the spouse is  
 40 entitled to receive a pension as the surviving spouse of a deceased  
 41 member as though the spouse had not been remarried.

42 (c) If a member dies while in active service, the member's children

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who are:

- (1) less than eighteen (18) years of age; or
- (2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member, in the member's capacity as a firefighter:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

**The term includes a death presumed incurred in the line of duty under IC 5-10-13.**

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian



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1 of the child or children.

2 (h) The monthly pension payable to a survivor may not be reduced  
3 below the amount of the first full monthly pension received by that  
4 person.

5 (i) A benefit payable under this section shall be paid in not less than  
6 twelve (12) monthly installments.

7 SECTION 9. IC 36-8-7.5-13, AS AMENDED BY P.L.246-2001,  
8 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2002]: Sec. 13. (a) For a member who becomes disabled  
10 before July 1, 2000, the 1953 fund shall be used to pay a pension in an  
11 annual sum equal to:

12 (1) fifty percent (50%) for a disease or disability occurring before  
13 July 1, 1991; and

14 (2) fifty-five percent (55%) for a disease or disability occurring  
15 after June 30, 1991;

16 of the salary of a first class patrolman in the police department,  
17 computed and payable as prescribed by section 12(b) of this chapter,  
18 to an active member of the police department who has been in active  
19 service for more than one (1) year and who has suffered or contracted  
20 a mental or physical disease or disability that render the member  
21 permanently unfit for active duty in the police department, or to an  
22 active member of the police department who has been in active service  
23 for less than one (1) year who has suffered or received personal injury  
24 from violent external causes while in the actual discharge of ~~his~~ **the**  
25 **member's** duties as a police officer. The pensions provided for in this  
26 subsection shall be paid only so long as the member of the police  
27 department remains unfit for active duty in the police department.

28 (b) For a member who becomes disabled after June 30, 2000, the  
29 1953 fund shall be used to pay a pension in an annual sum equal to  
30 fifty-five percent (55%) of the salary of a first class patrolman in the  
31 police department, computed on an annual basis and payable in twelve  
32 (12) equal monthly installments, to an active member of the police  
33 department who:

34 (1) has suffered or incurred a disability that renders the member  
35 permanently unfit for active duty in the police department and  
36 that is:

37 (A) the direct result of:

38 (i) a personal injury that occurs while the fund member is on  
39 duty;

40 (ii) a personal injury that occurs while the fund member is  
41 off duty and is responding to an offense or a reported  
42 offense; or



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(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); ~~or~~

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); **or**

**(C) a disability presumed incurred in the line of duty under IC 5-10-13; and**

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(c) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (b)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as

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the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform his duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of ~~his~~ **the member's** duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); ~~or~~

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational

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mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); **or**

**(C) a disability presumed incurred in the line of duty under IC 5-10-13; and**

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection (e)(1); and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.



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(g) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection (d), (e), or (f), the benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in ~~his~~ **the physician's** opinion the member is unfit, physically or mentally, for active duty in the police department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

(h) A member who has been granted a disability benefit under this section and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

(i) The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from ~~his~~ **the member's** disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, ~~he~~ **the member** ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

(j) Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time ~~he~~ **the member** entered or reentered ~~his~~ **the member's** active service in the police department.

(k) If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the

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1 member's monthly pension may not be reduced below fifty-five percent  
 2 (55%) of the salary of a first class patrolman at the time of payment of  
 3 the pension.

4 (l) To the extent required by the Americans with Disabilities Act,  
 5 the transcripts, reports, records, and other material compiled to  
 6 determine the existence of a disability shall be:

7 (1) kept in separate medical files for each member; and

8 (2) treated as confidential medical records.

9 (m) A fund member who is receiving disability benefits under this  
 10 chapter shall be transferred from disability to regular retirement status  
 11 when the member becomes fifty-five (55) years of age.

12 SECTION 10. IC 36-8-7.5-14.1, AS AMENDED BY P.L.1-2001,  
 13 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2002]: Sec. 14.1. (a) This section applies to an active member  
 15 who dies in the line of duty after August 31, 1982.

16 (b) If a member dies in the line of duty after August 31, 1982, the  
 17 surviving spouse is entitled to a monthly benefit, during the spouse's  
 18 lifetime, equal to the benefit to which the member would have been  
 19 entitled on the date of the member's death, but not less than fifty  
 20 percent (50%) of the monthly wage received by a first class patrolman.  
 21 If the spouse remarried before September 1, 1983, benefits ceased on  
 22 the date of remarriage. However, if a member of the police department  
 23 dies in the line of duty after August 31, 1982, and the member's  
 24 surviving spouse remarried before September 1, 1983, the benefits for  
 25 the surviving spouse shall be reinstated on July 1, 1995, and continue  
 26 during the life of the surviving spouse.

27 (c) The 1953 fund shall also be used to pay an annuity equal to  
 28 twenty percent (20%) of the salary of a first class patrolman on the  
 29 police department, computed as provided in section 12(b) of this  
 30 chapter and payable in monthly installments, to each dependent child  
 31 of a member of the fund who dies from any cause while in the actual  
 32 discharge of duties as a police officer. The pension to each child  
 33 continues:

34 (1) until the child becomes eighteen (18) years of age;

35 (2) until the child becomes twenty-three (23) years of age if the  
 36 child is enrolled in and regularly attending a secondary school or  
 37 is a full-time student at an accredited college or university; or

38 (3) during the entire period of the child's physical or mental  
 39 disability;

40 whichever period is longest. However, the pension to the child ceases  
 41 if the child marries or is legally adopted by any person.

42 (d) The surviving children of the deceased member who are eligible

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to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member, in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

**The term includes a death presumed incurred in the line of duty under IC 5-10-13.**

SECTION 11. IC 36-8-8-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.5. (a) This section

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1 applies only to a fund member who:

- 2 (1) is hired for the first time after December 31, 1989;
- 3 (2) chooses coverage by this section and section 13.5 of this
- 4 chapter under section 12.4 of this chapter; or
- 5 (3) is described in section 12.3(c)(2) of this chapter.

6 (b) At the same hearing where the determination of whether the  
7 fund member has a covered impairment is made, the local board shall  
8 determine the following:

- 9 (1) Whether the fund member has a Class 1 impairment. A Class  
10 1 impairment is a covered impairment that is the direct result of  
11 one (1) or more of the following:

- 12 (A) A personal injury that occurs while the fund member is on  
13 duty.

- 14 (B) A personal injury that occurs while the fund member is off  
15 duty and is responding to:

- 16 (i) an offense or a reported offense, in the case of a police  
17 officer; or

- 18 (ii) an emergency or reported emergency for which the fund  
19 member is trained, in the case of a firefighter.

- 20 (C) An occupational disease (as defined in IC 22-3-7-10). A  
21 covered impairment that is included within this clause and  
22 subdivision (2) shall be considered a Class 1 impairment.

- 23 **(D) A health condition caused by an exposure risk disease**  
24 **that results in a presumption of disability or death**  
25 **incurred in the line of duty under IC 5-10-13.**

- 26 (2) Whether the fund member has a Class 2 impairment. A Class  
27 2 impairment is a covered impairment that is a duty related  
28 disease. A duty related disease means a disease arising out of the  
29 fund member's employment. A disease shall be considered to  
30 arise out of the fund member's employment if it is apparent to the  
31 rational mind, upon consideration of all of the circumstances,  
32 that:

- 33 (A) there is a connection between the conditions under which  
34 the fund member's duties are performed and the disease;

- 35 (B) the disease can be seen to have followed as a natural  
36 incident of the fund member's duties as a result of the exposure  
37 occasioned by the nature of the fund member's duties; and

- 38 (C) the disease can be traced to the fund member's  
39 employment as the proximate cause.

- 40 (3) Whether the fund member has a Class 3 impairment. A Class  
41 3 impairment is a covered impairment that is not a Class 1  
42 impairment or a Class 2 impairment.



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SECTION 12. IC 36-8-8-14.1, AS AMENDED BY P.L.118-2000, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

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(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from:

- (1) any action that the member, in the member's capacity as a police officer:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

- (B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

- (2) any action that the member, in the member's capacity as a firefighter:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

- (B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

**The term includes a death presumed incurred in the line of duty under IC 5-10-13.**

SECTION 13. IC 36-8-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to disabled employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining disability insurance coverage, or both. However, the department may not establish or modify a disability benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any disability benefits set forth in any disability program that was in effect on January 1, 1989.

(b) Benefits payable as a result of line of duty activities, **including a disability presumed incurred in the line of duty under IC 5-10-13**, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of pension to which that employee beneficiary employed until normal retirement age would have been entitled.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 1, line 13, delete "a".
- Page 1, line 13, after "presumed" delete "disability".
- Page 2, line 29, delete "presumed".
- Page 2, line 29, after "death" insert "**presumed**".
- Page 2, line 34, delete "Presumed".
- Page 2, line 35, after "Disability" insert "**Presumed Incurred in the Line of Duty**".
- Page 6, line 9, after "death" insert "**presumed**".
- Page 6, line 23, delete "is presumed" and insert "**has**".
- Page 6, line 24, delete "to have".
- Page 6, line 24, delete "or death" and insert "**presumed**".
- Page 7, line 3, delete "presumed".
- Page 7, line 3, after "death" insert "**presumed**".
- Page 8, line 28, delete "presumed".
- Page 8, line 28, after "disability" insert "**presumed**".
- Page 11, line 18, delete "presumed".
- Page 11, line 18, after "death" insert "**presumed**".
- Page 12, line 28, delete "presumed".
- Page 12, line 28, after "disability" insert "**presumed**".
- Page 14, line 20, delete "presumed".
- Page 14, line 20, after "death" insert "**presumed**".
- Page 16, line 5, delete "presumed".
- Page 16, line 5, after "disability" insert "**presumed**".
- Page 17, line 40, delete "presumed".
- Page 17, line 40, after "disability" insert "**presumed**".
- Page 21, line 27, delete "presumed".
- Page 21, line 27, after "death" insert "**presumed**".
- Page 24, line 9, delete "presumed".
- Page 24, line 9, after "death" insert "**presumed**".
- Page 24, line 23, delete "presumed".
- Page 24, line 23, after "disability" insert "**presumed**".

and when so amended that said bill do pass.

(Reference is to HB 1347 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 13, nays 0.

**EH 1347—LS 7105/DI 97+**



SENATE MOTION

Mr. President: I move that Senators Hershman and Craycraft be added as cosponsors of Engrossed House Bill 1347.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1347, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 36, delete "communicable" and insert "**exposure risk**".

Page 2, between lines 37 and 38, begin a new line block indented and insert:

**"(1) acquired immune deficiency syndrome (AIDS);**

**(2) anthrax;"**.

Page 2, line 38, delete "(1)" and insert "(3)".

Page 2, between lines 38 and 39, begin a new line block indented and insert:

**"(4) human immunodeficiency virus (HIV);"**

Page 2, line 39, delete "(2)" and insert "(5)".

Page 2, line 39, delete "and".

Page 2, between lines 39 and 40, begin a new line block indented and insert:

**"(6) smallpox; and"**.

Page 2, line 40, delete "(3)" and insert "(7)".

Page 3, line 18, delete "a communicable" and insert "**an exposure risk**".

Page 4, line 1, after "by" delete "a".

Page 4, line 2, delete "communicable" and insert "**an exposure risk**".

Page 4, line 6, delete "or".

Page 4, line 6, after "(d)" insert ", (e), or (f)".

Page 4, line 17, after "affidavit" insert "**executed before death**".

Page 4, line 38, after "affidavit" insert "**executed before death**".

Page 5, line 6, after "affidavit" insert "**executed before death**".

Page 5, between lines 8 and 9, begin a new paragraph and insert:

**"(e) An employee who is diagnosed with a health condition caused by AIDS or HIV and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not:**

**(1) outside the scope of the employee's current employment, been exposed through transfer of body fluids to an individual known to have a medical condition caused by AIDS or HIV;**

**(2) received blood products other than a transfusion received because of an injury to the employee that occurred in the**



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scope of the employee's current employment;  
 (3) received blood products for the treatment of a coagulation disorder since testing negative for AIDS or HIV;  
 (4) engaged in sexual practices or other behavior identified as high risk by the Centers for Disease Control and Prevention or the Surgeon General of the United States;  
 (5) had sexual relations with another individual known to the employee to have engaged in sexual practices or other behavior described in subdivision (4); or  
 (6) used intravenous drugs that were not prescribed by a physician.

(f) An employee who is diagnosed with a health condition caused by smallpox and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's current employment, been exposed to another individual known to have smallpox."

Page 5, line 9, delete "(e)" and insert "(g)".

Page 5, between lines 10 and 11, begin a new paragraph and insert:

"(h) A meeting or hearing held to rebut a presumption of disability or death incurred in the line of duty may be held as an executive session under IC 5-14-1.5-6.1(b)(1)."

Page 5, line 12, delete "a communicable" and insert "an exposure risk".

Page 5, line 34, delete "The employer of an employee shall:".

Page 5, delete lines 35 through 37.

Page 5, line 38 delete "(b)".

Page 5, run in lines 34 through 38.

Page 5, line 39, delete "a".

Page 5, line 40, delete "communicable" and insert "an exposure risk".

Page 5, between lines 40 and 41, begin a new paragraph and insert:

"(b) The employer shall maintain a permanent record of a report filed by an employee under subsection (a)."

Page 6, delete lines 16 through 39.

Page 22, line 11, delete "a communicable" and insert "an exposure risk".

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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1347 as printed January 30, 2002.)

HARRISON, Chairperson

Committee Vote: Yeas 8, Nays 0.

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